

BEFORE THE BOARD OF PRIVATE ALTERNATIVE ADOLESCENT  
RESIDENTIAL OR OUTDOOR PROGRAMS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PUBLIC  
adoption of NEW RULES I-VI ) HEARING ON PROPOSED  
pertaining to private alternative ) ADOPTION  
adolescent residential or outdoor )  
programs )

1. On, October 26, 2005, at 9:00 a.m., a public hearing will be held in room 489, Park Avenue Building, 301 South Park, Helena, Montana to consider the proposed adoption of the above-stated rules.

2. The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Private Alternative Adolescent Residential or Outdoor Programs no later than 5:00 p.m. on October 19, 2005, to advise us of the nature of the accommodation that you need. Please contact Cynthia Reichenbach, Board of Private Alternative Adolescent Residential or Outdoor Programs, 301 South Park, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2392; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdparp@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: There is reasonable necessity to adopt rules to fulfill the purpose of Title 37, chapter 48, MCA, enacted by Chapter 294, Laws of 2005 (HB 628), which requires the Board to examine the benefit of licensing private alternative adolescent residential or outdoor programs by gathering data via the registration process, and to report to the economic affairs interim committee detailing the Board's findings, recommendations, and proposed legislation, if any, by September 15, 2006. Section 37-48-103(4), MCA, mandates that the Board adopt rules to determine any additional information necessary for registration.

The Board of Private Alternative Adolescent Residential or Outdoor Programs has determined that there is reasonable necessity to set the Board's fees at a level commensurate with program costs, as required by 37-1-134, MCA. The Board estimates that approximately 34 programs will be affected by establishing the registration fees. The Board believes that the fees are commensurate with the size of each program pursuant to 37-48-103, MCA. The Board estimates that the projected biennial revenue is approximately \$45,500.

Rules outlining the registration process, the establishment of fees, designation of Board officers to conduct business, and the creation of a registration application form to gather necessary information are reasonable and necessary to implement the provisions of Title 37, chapter 48, MCA.

4. The proposed new rules provide as follows:

NEW RULE I BOARD MEETINGS (1) The board shall annually elect a board chairperson and a vice chairperson at its fall meeting. The chairperson shall preside over all proceedings before the board. In the chairperson's absence, the vice-chairperson shall preside. In the absence of both, the board shall appoint an acting chairperson to preside.

AUTH: 37-1-131, 37-48-103, MCA

IMP: 37-1-131, 37-48-101, 37-48-103, MCA

NEW RULE II DEFINITIONS For the purpose of this chapter the following definitions apply:

(1) "Average daily census" means the arithmetical average of the number of participants served daily by the program, calculated over a calendar year. This number is calculated by adding the total number of service days, as defined in (2), provided by the program during the last calendar year, and divided by 365 days.

(2) "Number of service days" means any portion of a 24 hour period in which service is provided to one participant, multiplied by the number of actual participants on that day.

(3) "Participant" means any youth or adolescent to whom services are being provided by the program.

AUTH: 37-1-131, 37-48-103, MCA

IMP: 37-1-131, 37-48-103, MCA

NEW RULE III FEE SCHEDULE (1) The registration fee covers a two year period.

(2) Registration fees are calculated according to the program's average daily census:

(a) 0-10 participants	\$ 750
(b) 11-50 participants	1,750
(c) 51-100 participants	2,000
(d) 101 and more participants	3,000

(3) All existing programs must be registered within 30 days of the adoption of these rules.

(4) All fees provided for in this rule are nonrefundable and are not prorated for portions of the registration period.

AUTH: 37-48-103, MCA

IMP: 37-1-134, 37-48-103, MCA

NEW RULE IV APPLICATION FOR REGISTRATION (1) A program applicant shall submit an application on a form prescribed by the department. The application must be complete and

accompanied by the appropriate fees and the following documentation:

(a) a detailed description of the program, including but not limited to:

- (i) program mission statement;
- (ii) program history, including any prior names, locations and ownership;
- (iii) all insurance coverages, including workers' compensation;
- (iv) professional affiliations;
- (v) current educational, athletic, psychological and other services provided;
- (vi) all locations and facilities where program services to participants are or will be provided; and
- (vii) how and where participants are housed;

(b) a detailed description of the population served by the program;

(c) the contact information for each program, including the person responsible for the conduct of the program;

(d) a list of professional and supervisory employees and relevant credentials and other qualifications;

(e) a list of all individuals and/or entities, not included in (1)(d), who provide services directly to program participants;

(f) the average daily census. If the program did not operate during the prior calendar year, the applicant shall estimate the expected average daily census during the first calendar year of operations; and

(g) a copy of all program policies and procedures, including but not limited to:

- (i) admission;
- (ii) communication with family members;
- (iii) the availability of routine and emergency medical and psychological care;
- (iv) medication management;
- (v) complaints or grievances; and
- (vi) behavior management, including but not limited to:
  - (A) discipline;
  - (B) punishment;
  - (C) consequences;
  - (D) incentives; and
  - (E) use of seclusion and/or restraint.

(2) Incomplete applications will be returned. The applicant may correct any deficiencies, complete any requirements necessary for registration and resubmit the application to the board office. Failure to resubmit the deficient application within 60 days from the date the notice of deficiency is sent from the board office will be treated as a voluntary withdrawal of the application and all fees will be forfeited.

(3) After withdrawal of an application, the applicant will be required to submit a new application, including supporting documentation and appropriate fees.

(4) Registration applications submitted to the board will be reviewed by department staff, which may request such additional information as it deems reasonably necessary.

(5) Registration applications that are deemed complete will be issued a registration certificate by the department.

(6) A program's registration is nontransferable.

(7) Programs that are registered will be listed as being registered on the Montana state website.

AUTH: 37-1-131, 37-48-103, MCA

IMP: 37-1-131, 37-48-103, MCA

NEW RULE V SITE VISITS (1) For the purpose of gathering data and information for the study, programs may be visited by the board or its designee.

(2) Department staff will contact the person responsible for the conduct of the program, as identified in the registration application, to request permission to visit the facility at least seven business days prior to the intended visit.

AUTH: 37-48-103, MCA

IMP: 37-48-103, MCA

NEW RULE VI IMPLEMENTATION (1) Programs existing on [the date this rule becomes effective] have until [30 days after the effective date of the rule] in which to submit the program's registration application.

(2) Programs not in existence when this rule becomes effective must submit the program's registration application before the program begins serving participants.

AUTH: 37-48-103, MCA

IMP: 37-48-103, MCA

5. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Private Alternative Adolescent Residential or Outdoor Programs, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to [dlibsdparp@mt.gov](mailto:dlibsdparp@mt.gov), and must be received no later than 5:00 p.m., November 3, 2005.

6. An electronic copy of this Notice of Public Hearing is available through the Department's and Board's site on the World Wide Web at [www.parp.mt.gov](http://www.parp.mt.gov). The Department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to

keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The Board of Private Alternative Adolescent Residential or Outdoor Programs maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this Board. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Private Alternative Adolescent Residential or Outdoor Programs administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Private Alternative Adolescent Residential or Outdoor Programs, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to [dlibsdparp@mt.gov](mailto:dlibsdparp@mt.gov), or may be made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled.

9. Darcee L. Moe, attorney, has been designated to preside over and conduct this hearing.

BOARD OF PRIVATE ALTERNATIVE  
ADOLESCENT RESIDENTIAL OR OUTDOOR  
PROGRAMS  
PAUL CLARK, CHAIRPERSON

/s/ KEITH KELLY  
Keith Kelly, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

/s/ MARK CADWALLADER  
Mark Cadwallader  
Rule Reviewer

Certified to the Secretary of State September 26, 2005